



Document #2111896

USDOS – US Department of State (Author)

2023 Report on International Religious Freedom: Kenya

EXECUTIVE SUMMARY

The constitution stipulates there shall be no state religion and prohibits religious discrimination. The constitution provides for freedom of religion and belief individually or in communities, including the freedom to manifest any religion through worship, practice, teaching, or observance, and to debate religious questions. The constitution further provides for special *qadi* courts to adjudicate certain types of civil cases based on Islamic law.

In response to the death by starvation of hundreds of followers of Pastor Paul MacKenzie, President William Ruto appointed a taskforce to recommend changes to the country's legal, institutional, and governance frameworks for religious organizations. The Senate formed a committee to investigate the deaths and the proliferation of religious organizations and released a report in October. The Registrar of Societies deregistered several churches, including MacKenzie's, and one led by an alleged MacKenzie associate who obtained a court order suspending the decision. Human rights groups and Muslim organizations cited fewer concerns about the government's antiterrorism tactics, but they continued to report Muslim community complaints of intimidation, arbitrary arrest, and extortion by police. In May, the Court of Appeal ruled in favor of Jehovah's Witnesses students who asked to not be forced to attend Catholic Mass and nonclassroom interfaith activities in school.

In April, authorities discovered that members of MacKenzie's Good News International Ministries Church in the Shakahola Forest in Kilifi County had apparently starved themselves to death, allegedly on his instructions, to attain salvation. Authorities arrested Mackenzie and had not yet charged

him in connection with the Shakahola deaths at year's end, but he remained in prison on unrelated charges. At year's end, the government had exhumed 429 bodies, many of them children. The deaths spurred a robust public debate about how and whether to further regulate churches to prevent extremist beliefs. In August, the terrorist organization al-Shabaab killed two persons and burned down at least 10 homes and a church in a predominantly Christian village in Lamu West. In March, unknown perpetrators in Nairobi set fire to a church and damaged a mosque during protests against cost-of-living increases. Religious leaders called for calm. The Atheists in Kenya society again said its members experienced intolerance and indirect discrimination.

U.S. embassy representatives and U.S. officials in Washington met with government officials and stressed the role of interfaith dialogue in stemming religious intolerance, countering violent extremism, and addressing the grievances of marginalized religious and ethnic groups. The Ambassador and other embassy officials met with a wide variety of religious leaders and groups and discussed the importance of religious interfaith collaboration and the role of religious leaders in promoting freedom of religion and other human rights, among other topics. The embassy launched a series of strategic dialogues among religious leaders of various faiths to promote interreligious tolerance and respect for the human rights of underrepresented and minority groups.

Section I.

Religious Demography

The U.S. government estimates the total population at 57.1 million (mid-year 2023). According to the 2019 census (the most recent), approximately 85.5 percent of the total population is Christian and 11 percent Muslim. Groups constituting less than 2 percent of the population include Hindus, Sikhs, Baha'is, and those adhering to various traditional religions. Nonevangelical Protestants account for 33 percent of the population, Roman Catholics 21 percent, and other Christian denominations 32 percent, including evangelical Protestants, African instituted churches (churches started in Africa independently by Africans rather than chiefly by missionaries from another continent), and Orthodox churches. According to the census, 755,000 persons self-identified as atheist or having no religion. A 2022 Demographic Survey by the Kenya National Bureau of Statistics found that, of almost 46,000 respondents aged 15-49, Christians – consisting of 18.6 percent Catholics and 72.9 percent Protestants or other Christians – comprised 91.5 percent, Muslims 7.1 percent, other religions 0.4 percent, and no religion 1.1 percent. Many persons blend aspects of traditional religions, such as belief in spirits or witchcraft, with Christianity or Islam, and an increasing number of persons are reportedly reviving traditional religious and spiritual practices.

Most of the Muslim population lives in the northeast and coastal regions, with significant Muslim communities in several urban areas of Nairobi and the western part of the country. Religion and ethnicity are often linked, with most members of many ethnic groups adhering to the same religious beliefs. For example, ethnic Somalis and Swahilis living in the coastal region account for most of the Muslim population. The five largest ethnic groups (the Kikuyu, Luhya, Kalenjin, Luo, and Kamba) are predominately Christian. There are more than half a million refugees and asylum seekers living in several refugee camps, who practice a variety of religions.

Section II.

Status of Government Respect for Religious Freedom

LEGAL FRAMEWORK

The constitution stipulates there shall be no state religion and prohibits religious discrimination. The constitution provides for freedom of religion and belief individually or in communities, including the freedom to manifest any religion through worship, practice, teaching, or observance, and to debate religious questions. The constitution also states individuals shall not be compelled to act or engage in any act contrary to their belief or religion. These rights shall not be limited except by law, and then only to the extent that the limitation is “reasonable and justifiable in an open and democratic society.”

The constitution requires Parliament to enact legislation recognizing a system of personal and family law adhered to by Muslims. The constitution specifically provides for qadi courts to adjudicate certain types of civil cases based on Islamic law, including questions relating to personal status, marriage, divorce, or inheritance in cases in which “all the parties profess the Muslim religion.” The High Court has jurisdiction over civil and criminal proceedings, including those in the qadi courts, and accepts appeals of any qadi court decision.

The national penal code maintains blasphemy laws, which prohibit insulting religion or “wounding religious feelings” as misdemeanors. Destroying, damaging, or defiling any place of worship or object held sacred with the intention of insulting the religion of any class of persons is a misdemeanor, with a penalty of a fine or up to two years in prison. “Writing or uttering words with intent to wound religious feelings” carries a penalty of up to one year’s imprisonment. Crimes against the property of religious groups or places of worship are more likely to be treated as malicious destruction of property, which is also a misdemeanor.

According to the law, new religious groups, institutions or places of worship, and faith-based nongovernmental organizations (NGOs) must register with the Registrar of Societies, which reports to the Office of the Attorney General. The law prohibits unregistered or deregistered groups

from operating, but the prohibition is frequently not enforced. Indigenous and traditional religious groups do not have to register, and many do not. To register, applicants must have valid national identification documents, pay a fee, and undergo security screening. Applicants seeking to register and lead a new religious society are required to hold a diploma or degree from a recognized theological institution. Registered religious institutions and places of worship are exempt from paying tax on tithes, offerings, and donations, as well as duty on imported goods. The law also requires that organizations dedicated to advocacy, public benefit, the promotion of charity, or research register with the NGO Coordination Board. The law requires religious institutions to file annual returns; failure to do so results in deregistration, but the penalty is frequently not enforced. Deregistration may also be appealed.

All public and private schools following the national education curriculum administer mandatory religious education classes. These classes focus on Christian, Muslim, or Hindu teachings and on the basic content of the religious texts of the religion being taught, as well as ethics. The Ministry of Education allows local communities and schools to decide which course to offer. The course selected usually depends on the dominant local religion and the sponsor of the school, which is often a religious group. Larger schools sometimes offer both Christian and Islamic classes. Students who do not belong to the religions offered in their school may not opt out of the classes, although the Court of Appeal ruled in May that schools cannot force students to abandon their core religious beliefs.

The law recognizes five systems of marriage: civil, Christian, Hindu, customary, and Islamic.

The Ministry of Information, Communications, and Technology must approve regional radio and television broadcast licenses, including for religious organizations.

The country is a party to the International Covenant on Civil and Political Rights.

GOVERNMENT PRACTICES

In May, President Ruto appointed the Taskforce on the Review of the Legal and Regulatory Framework Governing Religious Organizations to gather public input and formulate recommendations on standards and certification requirements for religious organizations and their leaders, as well as to identify gaps in the country's legal, institutional, and governance frameworks that allowed the starvation deaths in Shakahola of several hundred followers of Pastor Paul MacKenzie, allegedly on his instructions, to occur without notice by authorities. The taskforce submitted an interim report to the President in November, and the President extended its mandate for another 90 days. The taskforce said it expected to release a final report to the public in early 2024.

Also in May, the Senate formed an ad hoc committee to investigate the proliferation of religious organizations and the circumstances surrounding the Shakahola deaths. In its October report, the committee issued recommendations for law enforcement agencies to investigate and prosecute responsible parties, including MacKenzie and his pastoral team, as well as county and police officials who failed to prevent the deaths. The committee also recommended strengthening government oversight of religious organizations and developing a new legal framework for registration, regulation, and compliance for religious organizations over a 12-month period. In particular, the new legal framework, requiring enactment by Parliament, would create an office of the registrar of religious organizations with new registration rules and broad oversight authority over compliance. The committee further recommended all religious organizations should join an umbrella religious body of a particular faith. The umbrella religious bodies would be registered and define theological training curricula as well as guidelines for their members' activities.

The Registrar of Societies deregistered at least five churches during the year. In August, the Registrar deregistered Paul MacKenzie's Good News International Ministries and the Newlife Prayer Center, led by an alleged associate of MacKenzie, Pastor Ezekiel Odera. Odera appealed the deregistration in court, and the High Court issued an order suspending the deregistration.

The Hindu Council of Kenya expressed concerns during the year over the law, enacted in 2022, requiring that persons applying to register religious groups hold a diploma or other degree from a recognized theological institution, since the Hindu faith does not recognize or require any specific theological certificates for Hindu priests.

During the first half of the year, human rights organizations such as HAKI Africa and Muslims for Human Rights (MUHURI) cited fewer concerns than in the past about the government's antiterrorism tactics, which they said under the prior administration disproportionately affected Muslims. However, in November and December, HAKI and MUHURI reported that extrajudicial killings and enforced disappearances had restarted, although they remained underreported. For example, on November 14, multiple press outlets reported unidentified men, presumably from the government security services, abducted Adan Ahmed Osman, a Somali national and Islamic school teacher in the Nairobi neighborhood of Eastleigh; at year's end, his whereabouts remained unknown.

Human rights organizations continued to report complaints from predominantly Muslim communities, particularly in the Eastleigh neighborhood of Nairobi and coastal regions, regarding intimidation,

arbitrary arrest, and extortion by police. Some complainants again stated police accused them of being members of al-Shabaab.

Some predominately Muslim ethnic groups, including Kenyan Somalis and Nubians, continued to report difficulties obtaining government identification cards. These communities stated government officials at times requested supporting documents not required by law and implemented vetting processes in a biased manner.

Since police officers typically were not permitted to serve in their home regions, officers in some Muslim-majority areas were largely non-Muslim. NGOs stated this often led to misunderstandings between police officers and the communities they served.

On May 12, the Court of Appeal ruled that compelling students to participate in interfaith activities that contradicted their faith was a direct violation of their freedom of religion under Article 32 of the constitution. The case was brought on behalf of Jehovah's Witnesses students at the Catholic St Anne's Primary School in Ahero, Kisumu, who asked to not be forced to attend Catholic Mass and other nonclassroom interfaith activities in school.

In November, the Court of Appeal ruled that a Muslim child born out of wedlock should receive an inheritance from the deceased father's estate, counter to sharia law, which states a child born out of wedlock can only inherit from the mother. The three-judge bench ruled the rights of the child outweighed the parents' marital status. Muslim groups stated their view that the ruling, and the Kenyan court hierarchy, ran counter to Islamic beliefs and values.

At year's end, the 2022 petition by former Member of Parliament (MP) Stephen Ndichu, which sought to suspend the registration of the Atheists in Kenya (AIK) society and argued that the registration and operations of AIK violated the constitution, remained pending following the recusal of the first judge assigned. According to AIK, the former MP filed the court case in response to an AIK press statement criticizing the First Lady for hosting religious services at State House (the President's residence).

The AIK continued to call on the government to abolish religious education in schools and recommended to a government task force on education reforms that religious education be replaced with philosophy and ethics courses.

In February, President Ruto announced the country's first ever day of prayer following a joint call by religious leaders to dedicate an entire day to prayer to ease drought conditions in the nation.

Government meetings regularly began and ended with a prayer. The Office of Faith Diplomacy, housed under the Office of the First Lady,

worked with faith-based organizations to address social problems through community engagement.

In March, following a Supreme Court ruling in February that affirmed the right of LGBTQI+ organizations to register as NGOs, an MP from the United Democratic Alliance Party, Mohammed Ali, cited the Quran and a Biblical passage that he said called for the death penalty for homosexual acts.

Section III.

Status of Societal Respect for Religious Freedom

In April, authorities discovered that hundreds of members of Pastor Paul MacKenzie's Good News International Ministries Church in the Shakahola forest in Kilifi County had apparently starved themselves to death, allegedly on MacKenzie's instructions, to attain salvation. As of the end of the year, the government had exhumed 429 bodies, many unidentified, and the exhumation work continued at year's end. Most of the dead succumbed to starvation, while some died from asphyxiation or blunt trauma. The Senate ad hoc committee report also contained evidence of a group of armed men who allegedly enforced MacKenzie's directives through violence. Civil society sources estimated one-third of the dead were children.

Authorities arrested MacKenzie and held him in prison for operating an unlicensed film studio. At year's end, he had not yet been charged for the Shakahola deaths. Authorities said they planned to indict MacKenzie and numerous codefendants on charges of homicide, manslaughter, radicalization, and torture. Authorities previously arrested MacKenzie several times in 2017-18 for allegedly forbidding his followers to send their children to school or seek healthcare.

Following the discovery of the Shakahola deaths, there was robust public debate about how and whether to regulate churches to prevent extremist beliefs and "doomsday cults." Political, civic, and religious leaders from a wide spectrum of society called on the government to strengthen oversight of religious organizations to prevent similar tragedies in the future.

The Somalia-based terrorist group al-Shabaab again carried out attacks in Mandera, Wajir, Garissa, and Lamu Counties, in the northeastern part of the country. Some attacks may have targeted non-Muslims because of their faith. In August, al-Shabaab raided a predominantly Christian village in Lamu West, where they killed two persons and burned down at least 10 homes and a church.

In March, unknown perpetrators set fire to a church and several businesses in Nairobi's low-income Kibera district, and a mosque was also damaged, during opposition-led protests against cost-of-living increases.

Religious leaders called for calm, and an interfaith group worked together to rebuild the church.

There were reports that non-Muslims generally continued to harass or treat with suspicion persons of Somali ethnicity, who are predominantly Muslim.

During the year, the Inter-Religious Council of Kenya (IRCK) continued to partner with other NGOs such as the Kenya Community Support Center (KECOSCE) to encourage religious tolerance and reduce opportunities for radicalization related to religion, particularly in Nairobi and the coastal region. KECOSCE and the IRCK hosted interfaith dialogues and joint community activities to encourage peaceful coexistence, religious tolerance, and mutual understanding.

According to religious and interfaith leaders, Kenyans were generally tolerant of different faiths, and faith communities practiced their religion without restrictions. The AIK society, however, said there was less tolerance of nonbelievers, and its members continued to experience intolerance and indirect discrimination. They cited cases of companies firing employees who had publicly identified as atheists. Members of AIK said many atheists were unable to disclose their lack of religious belief openly with their family, community, or employer. An official with AIK said she experienced online harassment, including being called a “devil worshipper,” after the announcement of her appointment with the group in November.

Civil society activists reported an increase in conversion therapy practices used on LGBTQI+ persons during the year by both Christian and Muslim religious leaders and within religious settings that in some cases may have involved minors or may have included violent measures or coercion, such as beatings, “corrective” rape, or forced marriage.

Section IV.

U.S. Government Policy and Engagement

In October, U.S. government officials hosted a delegation of the Kenyan Taskforce on Religious Regulation that visited Washington, D.C. to consult with U.S. officials. U.S. officials emphasized the importance of respecting religious freedom using a civic engagement and public health approach to engage communities and faith-based organizations and a law enforcement approach to punish criminal activity rather than religious communities. In December, visiting U.S. government officials again engaged with the taskforce and reiterated the same messages.

U.S. embassy officials continued to work with the National Council of Churches of Kenya and other religious institutions that collaborated on the U.S.-funded Mulika Initiative, a faith-based, civil society-led cohesion

and election oversight program for a peaceful and accountable democratic process.

During the year, the Ambassador, other embassy representatives, and visiting U.S. officials, met with religious leaders and groups, including the IRCK, Supreme Council of Kenya Muslims, Hindu Council of Kenya, National Muslim Leaders Forum, Kenya Conference of Catholic Bishops, Evangelical Alliance of Kenya, and National Council of Churches of Kenya. Among the topics of discussion were the importance of religious leaders in promoting the rights to freedom of religion or belief and other human rights, including of marginalized and vulnerable persons.

The embassy supported civil society organizations that protect the legal and human rights of marginalized groups, including religious minorities. The embassy continued to partner with interfaith groups to improve accountable governance and strengthen the relationship between marginalized communities, including Muslim communities, and law enforcement bodies. The embassy also partnered with religious groups and others to strengthen resilience against conflict and violent extremism through assistance programs. For example, the embassy launched a program with an implementing partner to initiate a series of strategic dialogues among religious leaders of various faiths to promote, within their congregations and faith communities, tolerance and respect for the human rights of underrepresented and minority groups.

ecoi.net description:

Annual report on religious freedom (covering 2023)

Country:

Kenya

Source:

[USDOS – US Department of State](#) (Author)

Published:

30 June 2024

Original link:

<https://www.state.gov/reports/2023-report-on-international-religious-freedom/kenya/>

Document type:

Periodical Report

Language:
English

Available on ecoi.net since:
3 July 2024

Document ID:
2111896

Austrian Red Cross	Wiedner Hauptstraße	Contact
Austrian Centre for	32, 1041 Wien	Imprint & Disclaimer
Country of Origin and	T +43 1 589 00 583	F.A.Q.
Asylum Research and	F +43 1 589 00 589	Data Protection Notice
Documentation	info@ecoi.net	
(ACCORD)		

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